REMARKS

Formal Matters

Claims 128-137 and 145-151 are pending after entry of the amendments set forth herein.

Claims 128-137 and 145-150 were examined. Claims 128-137 and 145-150 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under 35 U.S.C. Section 103(a) (Taylor et al.)

In the Official Action of December 31, 2009, claims 128-133, 145 and 147-149 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641.

Regarding claim 128, the Examiner asserted that the embodiment of Fig. 9A of Taylor et al. discloses a device in which the bottom surface of the contact member includes a contact member that declines angularly in a radial direction from a periphery of said loop towards and opening (between the legs of the U-shaped loop) as the outer periphery contains that contains lumen 48/47 is shown to be thicker than the area toward the center.

Applicants respectfully traverse. It is respectfully submitted that Fig. 9A is a perspective, two-dimensional line drawing of the device 1 and, as such, it is not possible to determine the thickness of the outer periphery that contains lumen 48/47 relative to the area toward the center. Further, the lumens 48 are shown as passing internally through the contact member 1 and do not show any increase in thickness, contrary to the Examiner's assertion.

Still further, it is respectfully submitted that a "greater thickness" portion does not serve as a basis for concluding that the bottom surface declines angularly. For example, looking at the embodiment of Fig. 9b where the lumen 48 rests on top of the contact member 1, the combined thickness of the contact member 1 and the lumen 48 of the outer peripheral portion is greater than the thickness of the contact member 1 alone of the inner peripheral portion. However, the bottom portion is

still horizontal and does not decline, since the additional thickness is provided at the top surface of the contact member 1.

The Examiner further asserted that Taylor et al. discloses embodiments in Fig. 4B and Fig. 7B wherein the bottom surface declines angularly in a radial direction from a periphery of the contact member towards an opening in the middle.

Applicants respectfully traverse, it is respectfully submitted that the bottom surfaces of the embodiment of Fig. 4B of Taylor et al. are flat and horizontal, as they are both coplanar, as shown in Fig. 4B. The curved sides that the Examiner appears to have pointed to on page 3 of the Office Action are not the bottom surface, but are sides of the device. The top surface of the device is declining from an outer periphery to an inner periphery, but not the bottom surface.

Regarding claim 7, it is respectfully submitted that the contact surfaces of the bottom surface are flat and horizontal, coplanar with one another. The portions at the ends of the device that are elevated are not contact surfaces. Further, the embodiment of Fig. 7B, like the embodiments of Figs. 9A and 4B of Taylor et al., is a primary stabilization member, not a device for providing additional stabilization to tissue already in contact with a stabilization member as claimed.

Claim 128 has been amended above to clarify that the side portions, between the proximal and distal ends of he contact member provide the contact member with a length dimension that is greater than a width dimension, and that the outer peripheral portions of the contact surface along the side portions are configured to contact the primary stabilization member while the inner peripheral portions of the contact surface along the side portions contact the tissue to provide additional stabilization. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof. It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A have side portions as claimed.

As to claims 130-131, the Examiner has asserted that it would have been an obvious design choice to make the contact member of Taylor et al. substantially oval-shaped. However, the Examiner has not provided any reference which teaches or provides motivation for such a modification. Applicants respectfully submit that the shape facilitates the function of the device to provide additional stabilization, in addition to that provided by a primary stabilization member. On the other hand, each of the embodiments of Taylor et al. referred to by the Examiner are primary stabilization devices. Accordingly, it is respectfully submitted that it would not have been obvious to modify the devices of Taylor et al. in the manner asserted by the Examiner, as there is no motivation to modify them to function as devices for providing additional stabilization.

Claim 145 has been amended to clarify that elongated sides of the bottom surface are longer than end portions of the bottom surface joining said elongated sides, and outer peripheral portions of the elongated sides portions are configured to contact the primary stabilization member while inner peripheral portions of the elongated sides contact the tissue to provide additional stabilization of the tissue. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof.

It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A have elongated sides as claimed.

Claim 146 has been amended to clarify that said bottom surface has elongated sides joined by end portions, such that said elongated sides are longer than said end portions, and outer peripheral portions of the elongated sides portions are configured to contact the primary stabilization member while inner peripheral portions of the elongated sides contact the tissue to provide additional stabilization of the tissue. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof.

It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A have elongated sides as claimed.

Claim 147 has been amended to clarify that elongated sides of the bottom, contact surface are longer than end portions of the bottom, contact surface joining said elongated sides, and said outer perimeter portion extending along said elongated sides is configured to contact the primary stabilization member while said inner perimeter portion extending along said elongated sides contacts the tissue to provide additional stabilization of the tissue. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof.

It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A have elongated sides as claimed.

Claim 148 has been amended to clarify that the substantially rigid, tissue contact member includes a contact bottom surface that angles from an exterior bottom portion thereof to an interior bottom portion thereof along elongated sides thereof, wherein said elongated sides cause said contact bottom surface to have a greater length than width. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof.

It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A have a contact bottom surface as claimed.

Claim 149 has been amended to clarify that elongated portions of said contact bottom surface

join proximal and distal end portions of said contact bottom surface causing said contact bottom surface to have a length that is greater than a width of said contact bottom surface, said side portion of said contact bottom surface canting upwardly in opposite directions on opposite sides of said central opening, from an interior portion thereof to an outer perimeter thereof, said outer perimeter of said side portions of said bottom contact surface being configured to contact the primary stabilization member while said interior portions contact the tissue to provide additional stabilization. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof.

It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A have a contact bottom surface as claimed.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 128-133, 145 and 147-149 under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641., as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Taylor et al. in view of Borst et al.)

Claims 134-137, 146 and 150 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641 in view of Borst et al., U.S. Patent No. 5,836,311. The Examiner asserted that Taylor et al. discloses the invention substantially as claimed. For at least the reasons mentioned above under the grounds of rejection of claims 128-133. 145 and 147-149, Applicants respectfully traverse.

It is further noted that, like Taylor et al., Borst et al. also fails to disclose or suggest a device for providing additional stabilization to tissue already in contact with a primary stabilization member and fails to disclose canted contact surfaces that are angled in opposite directions on opposite sides of a central opening, and there would therefore have been no motivation or teaching to modify Taylor et al. to include a contact surface as claimed.

Claim 150 has been amended to clarify that said bottom surface is inclined upwardly, along a continuous slope, in opposite directions on opposite sides of said central opening, along a direction from an interior perimeter thereof to an exterior perimeter thereof. Support for this amendment can be found, for example, at Figs. 16A-16B and the descriptions thereof.

It is respectfully submitted that none of the embodiments of Figs. 4B, 7B and 9A of Taylor et al., nor any of the embodiments of Borst et al., or any proper combination of these references have a contact bottom surface as claimed.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 134-137, 146 and 150 under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641 in view of Borst et al., U.S. Patent No. 5,836,311, as being inappropriate.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-021DIV.

Respectfully submitted,
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